

**DISTRICT COURT OF THE VIRGIN ISLANDS**

**DIVISION OF ST. CROIX**

**CAONA JARVIS,**

**Plaintiff,**

**2005-CV-0077**

**v.**

**PREMUDA, S.p.A., owner and owner  
pro hac vice of the Vessel FOUR ETOILES,**

**Defendant.**

**TO: John K. Dema, Esq.  
Chetema Lucas Francis, Esq.**

**ORDER REGARDING PLAINTIFF'S MOTIONS FOR SANCTIONS AND TO  
DEEM CONCEDED**

THIS MATTER is before the Court upon Plaintiff's Motion For Sanctions to Be Imposed Against Defendant Pursuant to Fed. R. Civ. P. 37(b)(2), Based on Defendant's Willful Violation of Court Order Requiring Defendant to File Defendant's Portion of the Joint Final Pretrial Order by June 27, 2007[,] and to File Defendant's Opposition to Plaintiff's Daubert Motion to Exclude Captain Geary by June 22, 2007 (Docket No. 151); Plaintiff's Motion For Sanctions Against Defendant Based on Defendant's Violation of the Court Order Dated July 18, 2007 (Docket No. 154); and Motion by Plaintiff to Deem Conceded Plaintiff's Motion For Sanctions Against Defendant Based on Defendant's

*Jarvis v. Premuda, S.p.A.*

2005-CV-0077

Order Regarding Plaintiff's Motions For Sanctions

Page 2

Violation of the Court Order Dated July 18, 2007 (Docket No. 168). Defendant filed an opposition to the motion for sanctions based upon its violation of the Court order dated July 18, 2007, and Plaintiff filed a reply thereto.

The record reflects that Defendant filed the joint final pretrial statement, containing its portion (Docket No. 159), as well as its opposition to Plaintiff's Motion For Daubert Hearing and to Exclude the Testimony and Report of Ed Geary (Docket No. 155). The record further reflects that the trial scheduled for August 6, 2007, has been continued (Docket No. 160). Notwithstanding the tardiness of Defendant's filings, the Court finds that Plaintiff has not been prejudiced thereby. Consequently, the Court will deny Plaintiff's Motion For Sanctions to Be Imposed Against Defendant Pursuant to Fed. R. Civ. P. 37(b)(2), Based on Defendant's Willful Violation of Court Order Requiring Defendant to File Defendant's Portion of the Joint Final Pretrial Order by June 27, 2007[,] and to File Defendant's Opposition to Plaintiff's Daubert Motion to Exclude Captain Geary by June 22, 2007 (Docket No. 151).

Having reviewed the submissions of the parties regarding Defendant's alleged violation of the Court's July 18, 2007, order and upon due consideration thereof, the Court finds that Defendant has not fully complied with the said order. Despite Defendant's attempt to limit the order to only the documents reviewed and relied upon by Captain

*Jarvis v. Premuda, S.p.A.*

2005-CV-0077

Order Regarding Plaintiff's Motions For Sanctions

Page 3

Geary, the order encompasses all of the inspection/maintenance logs and repair records pertaining to the vessel at issue. In said order, the Court found that "Plaintiff would be prejudiced by not receiving the maintenance logs of the vessel FOUR ETOILES during discovery." Order Regarding Motion For Sanctions Against Defendant Based on Defendant's Concealment of, and Failure to Produce, the Maintenance Logs of the Vessel Four Etoiles, Pursuant to Fed. R. Civ. P. 37(c)(1) and 37(b)(2)(B) (Docket No. 162) at 4. In lieu of imposing sanctions at that juncture, the Court allowed Defendant an opportunity to cure the prejudice. *Id.* However, Defendant has failed to take advantage of such opportunity. Therefore, the Court will grant Plaintiff's motion for sanctions insofar as precluding Defendant from introducing evidence or testimony relating to the condition of the vessel based upon such documents. The Court will deny Plaintiff's request to inform the jury of Defendant's failure to disclose said documents.

Because Defendant filed a response to Plaintiff's Motion For Sanctions Against Defendant Based on Defendant's Violation of the Court Order Dated July 18, 2007, the Court will deny Plaintiff's motion to deem conceded.

Accordingly, it is now hereby **ORDERED**:

1. Plaintiff's Motion For Sanctions to Be Imposed Against Defendant Pursuant to Fed. R. Civ. P. 37(b)(2), Based on Defendant's Willful Violation of Court

*Jarvis v. Premuda, S.p.A.*

2005-CV-0077

Order Regarding Plaintiff's Motions For Sanctions

Page 4

Order Requiring Defendant to File Defendant's Portion of the Joint Final Pretrial Order by June 27, 2007[,] and to File Defendant's Opposition to Plaintiff's Daubert Motion to Exclude Captain Geary by June 22, 2007 (Docket No. 151) is **DENIED**.

2. Plaintiff's Motion For Sanctions Against Defendant Based on Defendant's Violation of the Court Order Dated July 18, 2007 (Docket No. 154) is **GRANTED IN PART AND DENIED IN PART**.
3. Defendant is **PRECLUDED** from introducing and relying upon at trial any evidence or testimony including, but not limited to, the testimony of Captain Geary, in any way related to the maintenance and condition of the vessel FOUR ETOILES at the time of Plaintiff's accident which is based upon Defendant's maintenance logs and records.
4. Motion by Plaintiff to Deem Conceded Plaintiff's Motion For Sanctions Against Defendant Based on Defendant's Violation of the Court Order Dated July 18, 2007 (Docket No. 168) is **DENIED**.

ENTER:

Dated: September 21, 2007

\_\_\_\_\_/s/  
GEORGE W. CANNON, JR.  
U.S. MAGISTRATE JUDGE